

### **REMARKS/ARGUMENTS**

In response to the Final Office Action mailed March 29, 2005, Applicants propose to amend their application and request reconsideration in view of the proposed amendments and the following remarks. In this amendment, no claims have been proposed to be cancelled, no claims have been proposed to be added and claims 1, 6, 20, 21 and 24 are proposed to be amended so that claims 1, 6, 20, 21 and 24 are currently pending. No new matter has been introduced.

Claims 1, 6, and 24 were objected to for a number of minor informalities. Applicants have amended the claims to correct these informalities.

Claims 1, 6, 21 and 24 were rejected as being anticipated by U.S. Patent No. 5,843,160 to Rhodes. This rejection is respectfully traversed.

Anticipation exists only if all of the elements of the claimed invention are present in a system or method disclosed, expressly or inherently, in a single prior art reference. Therefore, if it can be shown that there is one difference between the claimed invention and what is disclosed in the single reference, there can be no anticipation.

Rhodes discloses a system for bypassing an aneurysm or aneurysms at a bifurcation in a vessel. Sealing rings are utilized to prevent leaks at various points in the system. As stated at column 9, lines 53-58, "the sealing rings 90 and 92 are interposed between the outer surface of the section and the inner wall of the abdominal aorta on opposite sides of the aneurysm 10A, i.e., proximally and distally."

The present invention as claimed in amended claim 1 is directed to a bypass system that comprises a first prosthesis, a compressible gasket and at least two bypass prostheses. The first prosthesis include a self-expanding lattice. The graft material nor longitudinally oriented pleats. The compressible gasket is positioned in the distal end of the first prosthesis

and comprises at least two apertures. The compressible gasket is configured to engage and seal the at least two bypass prostheses to the first prosthesis.

Rhodes fails to disclose or suggest a device comprising a compressible gasket having two apertures for sealing the two bypass prostheses to the first prosthesis. As stated in Rhodes, the sealing rings provide a seal to the artery wall and not to each other. In addition, the sealing rings do not have two apertures. Since Rhodes fails to disclose these features, there can be no anticipation. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1, 6, 20, 21 and 24 were rejected as being unpatentable over U.S. Patent No. 6,554,858 to Dereume et al (Dereume) in view of U.S. Patent No. 5,476,506 to Lunn. This rejection is respectfully traversed.

Dereume discloses an intraluminal prosthesis. The intraluminal prosthesis comprises a tubular trunk that is divided into several axial channels. The several axial channels are adapted to receive stent grafts.

Lunn discloses a graft. The graft comprises a thin walled hollow cylinder having a central portion and end portions. The end portions are provided with a series of longitudinally extending pleats. This allows for diameter control. The central portion is provided with a series of circumferential crimps. This is for length control. Stents are used in the end sections to expand and sandwich the walls of the end portions between the stents and the vessel wall (see Figures 4 and 5A).

The MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness:

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art,

to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In *re* Vaeck, 947 F.2d, 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 – § 2143.03 for decisions pertinent to each of these criteria.”

Section 2143.03 of the MPEP clarifies certain criteria in section 706.02(j).

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” In *re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In *re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).”

The combination of references fail to disclose or suggest a system for bypassing an aneurysm comprising a first prosthesis, a compressible gasket and at least two bypass prostheses, wherein the first prosthesis comprises a self-expanding lattice and graft material having longitudinally oriented pleats. In *Lunn*, stents are used in the end sections and not in the middle pleated section. Since *Lunn* fails to disclose or suggest this feature, the combination of references fails to disclose or suggest all of the claimed features. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

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A favorable action on the merits is earnestly solicited.

Respectfully submitted,

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